



A nonprofit organization  
dedicated to protecting children by  
improving children's product safety

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**Testimony of Nancy A. Cowles**  
**Before the House Subcommittee**  
**On Commerce, Trade and Consumer Protection**  
**Protecting Our Children:**  
**Current Issues in Children's Product Safety**  
**May 15, 2007**

Good Morning Chairman Rush and Vice-Chair Schakowsky and  
Committee members. Thank you for this opportunity to present our views  
on the children's product safety system and ways to better protect children.

Kids In Danger is a nonprofit organization dedicated to protecting  
children by improving children's product safety. We were founded in 1998  
by Linda Ginzl and Boaz Keysar, after the death of their son Danny Keysar  
in a poorly designed, inadequately tested and feebly recalled portable crib.  
Our mission is to promote the development of safer children's products,  
advocate for children and educate the general public, especially parents and  
caregivers, about children's product safety.

We have worked with states to implement the Children's Product  
Safety Act which prohibits the sale or lease of recalled or dangerous  
children's products or their use in licensed childcare. Currently 7 states  
have such a law; it is moving through the legislative process in five others  
this year. We provide educational materials on children's product safety to  
childcare providers, health care professionals, parents and caregivers to alert  
them to the minefield of dangers facing children. We are working with

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**DON'T LEARN ABOUT RECALLS FROM YOUR BABY**

engineering programs at universities to increase the knowledge of safety and standards that tomorrow's designers will bring to children's products. We are doing all we can to protect children and welcome this opportunity to speak to you about how we believe the Congress and the US Consumer Product Safety Commission could better protect our children.

In 1999, a survey in Illinois<sup>1</sup> showed that 79% of voters believed that manufacturers were required to test children's products for safety before they were sold and 67% erroneously believed that the government oversaw that testing. While that data may seem dated, I predict that any poll of Americans today would show a similar disconnect from the real situation. To a one, the parents, caregivers and health professionals I meet believe that if they buy a stroller, high chair, baby swing, or playpen, especially a name brand they recognize, that someone, somewhere has made sure it is safe for their baby. They are shocked to learn that we have no law requiring safety testing and that the government only takes action after a product is manufactured, sold, and proved to be unsafe -- a very backwards approach in most people's eyes. Subsequent surveys by the Coalition for Consumer Rights show that super majorities -- 97% -- support a requirement for premarket safety testing. Yet it is still not required and many products make it to store shelves that do not meet standards or whose design puts children at risk.

Marla Felcher and I are both involved in children's product safety because of the same child. Danny Keysar died in 1998 when the portable crib he napped in at childcare

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<sup>1</sup> *Annual Survey of Illinois Voters*, Coalition for Consumer Rights, Chicago, Illinois 1999.

collapsed around his neck, strangling him. Marla's book, *It's No Accident: How Corporations Sell Dangerous Baby Products*, outlines the convoluted recall of the 5 cribs with the same deadly top-rail design. While the first death in a Playskool Travel-Lite portable crib was in July 1991, months after it was first sold, the final product with that design, the Evenflo Happy Camper was not recalled until 1998, after the third child died in that brand. And another portable crib/playyard with a different latching mechanism wasn't recalled until 2001 after a child died in it – despite many earlier breakage reports that showed the likely outcome. After two babies died in 2001 in the Baby Trend portable crib, our requests for more information on the recall effectiveness of that particular campaign were met with the astonishing admission that CPSC had lost the file – even though they had new deaths from the product.

And now news reports of similar lackluster responses to new hazards have us very troubled. We learned of Kenny Sweet's death from ingested magnets from a Magnetix toy from a news report in December 2005. We immediately covered it in our monthly email alert to parents and caregivers and also in January 2006 asked ASTM International to add it to the agenda of the February Toy Standards meeting. At that meeting, the group agreed to get more incident data from the CPSC. At the next meeting in June, although the chair had incident data from the CPSC it was not distributed to the group and a task group was formed. That group led to the new voluntary standard which includes a requirement that toys with magnets that are small enough to swallow be labeled with a warning about the dangers of magnets and that toys with magnets be tested

to assure that the magnets do not fall out as was the case with Magnetix. However, the standard still allows magnetic toys with larger components to withhold the information and warning about magnets and still allows toys with loose magnets small enough to swallow to be sold. In my opinion, no toy that contains small magnets, accessible or not, should be sold without the warning for parents. And CPSC should weigh the dangers of small candy shaped magnets and consider a ban of particular shapes and sizes based on the large number of incidents. Read the stories of the children who survived and you'll see what a devastating injury these little magnets cause. Most of the children injured were above the age limit on the toy. Those that weren't usually got the magnets when they broke loose from the toy – not from lack of supervision.

Also in the news -- baby bibs, lunchboxes, jewelry, flashlights, all products containing lead. There is absolutely no reason why lead should be in these products intended for children. CPSC has recalled 19 lead-tainted infant and children products this year already – surpassing last year's 17 recalls. In the best case scenario, parents have tossed these products and they are in our landfills, potentially poisoning our groundwater. In the worst case, and more likely scenario, they are still being used and worn by children in thousands of homes across America. Ask yourself – would anyone in their right mind knowingly hang a known neurotoxin around their child's neck and repeatedly wipe food off of it? No, of course not. And yet while Illinois, with a strong lead safety law and the children's product safety act, forced Wal-Mart to recall this toxic bib, CPSC could only offer a weak suggestion to throw away worn or torn bibs. This is like suggesting that if

a toy is known to break and release small parts, the recall only takes affect when the toy breaks and presents the hazard – that is nonsense.

While most parents believe that products are required to be tested for safety before they reach store shelves and that the government oversees such testing, the reality is much different. There is no requirement that children's products be tested for safety before they are sold and no provisions for CPSC to monitor the testing of children's products. Instead, we rely on voluntary industry standards, set by the very manufacturers that will be subject to their provisions. I have sat on the standard setting committees at ASTM on children's products and toys since 2001. In a room of 40-50 people, 2-3 of us are consumer representatives and another handful represent testing labs hired by the companies to test their products. The rest of the voting members are manufacturers. CPSC attends and participates, but does not vote. The system doesn't work fast, it doesn't work well and it isn't complete. New product types, new hazards and even age old problems such as hardware failure on cribs are slow to be addressed and even slower to be remedied. Most committee members are well intentioned, but some seem to serve only to obstruct the process. In one recent subcommittee a manufacturing rep said out loud what we had only assumed until then– could the standard have a later effective date to give manufacturers time to sell off current inventory? He wanted a chance to sell unsafe products before more stringent standards went into effect. The lead defense attorney for toy and juvenile manufacturers whose products have injured or killed children participates in every standard setting meeting, a clear conflict of interest.

And even when there are mandatory standards such as for full-size cribs, small parts and lead content, there is no requirement to certify that the product meets the standard before it is sold, leading to the large number of lead and other recalls – a very ineffective way to protect children.

So many dangerous products make it onto the market and some are later recalled – also a flawed process. Manufacturers have editorial veto power over the press release announcing the recall, allowing them to try to downplay the danger. The only requirement is the press release. Many companies do nothing further to publicize the recall and millions of potential users never hear of the danger. I volunteer with an organization in my home town that serves low-income and teen moms. Twice a year the organization has a large rummage sale of clothes and children's equipment to support its work. Before each sale, I survey the products and remove those that have been recalled. Each time, not only do I always find recalled products, but even 10 years after the last collapsing top rail portable crib recall, I almost always find a portable crib similar to the one that Danny died in.

CPSC and manufacturers can do more. I was amazed to learn this year that prior to previous assurances, many retailers learn of recalls the same way I do – they visit the CPSC web site each morning. Over the past several years, I have been able to purchase many recalled products on line even months after the recall. While CPSC seems unable to prevent this, it is illegal now with Illinois law and so our Attorney General has been addressing the problem locally – but it shouldn't be her responsibility. Manufacturers

should be required to notify all their retailers that a recall is imminent. A registration bill such as the one proposed by Congresswoman Schakowsky should be in place to assure that more people learn of recalls.

But simply improving the recall system will not prevent injuries and deaths in unsafe products.

Look just at one product type – the rotating top rail style portable cribs that were made *and* recalled in the 1990's. Linda Ginzel lost her son in the first of these cribs, the Playskool Travel Lite. But four other companies picked up on this untested design and used it in their own products. These portable cribs and play yards contained a deadly flaw that allowed the sides to collapse, strangling at least 16 children that we are aware of. The names of these children and some of their stories can be found at our website [www.kidsindanger.org](http://www.kidsindanger.org) in the Family Voices section. Of the deaths we are aware of, nine took place before the recall and seven afterwards. So even the most effective recall will not prevent deaths from unsafe products.

We believe the answer lies in the simple solution that most parents already believe is the case – all children's products should be tested, by independent laboratories, to strict safety standards, before they can be placed on store shelves. Voluntary standards and self-reporting have not worked.

HR 1698, the Infant and Toddler Durable Product Safety Act, introduced by Representative Schakowsky provides a mechanism for strong mandatory standards and independent safety testing before products are sold. The legislation would require the

CPSC to set up a commission to set mandatory standards for durable infant and toddler products, those products we use to care for a baby – high chair, stroller, crib, portable crib, etc. a total of about 12 products. Unlike the ASTM International committee that sets the voluntary standards, this commission must be balanced between consumers, testing laboratories, government and manufacturers. In addition to developing the standards, or adopting current standards as mandatory, the commission will also develop a certification program for independent testing laboratories and the seal that will indicate a product has been independently tested to these strict standards. Then manufacturers will contract with testing labs to certify their products and only products with the safety seal can be sold in the United States. This is the only way to be sure that products meant for our most vulnerable consumers are as safe as we can possibly make them.

In addition, we would urge this committee and Congress to increase its oversight of the CPSC. While companies are required to file monthly reports on the effectiveness of the recall, this information is hidden from view. Congress should request an annual report of all recalls efforts that detail the number of products in consumer use that are returned or accounted for and the efforts made to reach likely users. Perhaps if the woeful numbers shown by most manufacturers were subject to public scrutiny, they might make more of an effort to retrieve the products.

In addition, I believe that CPSC should have the constraints on talking about potential hazards eased. Just as I can see car seat complaints at the NHTSA site, I should be able to see what products are leading consumers to complain to CPSC and why. The

recent Evenflo Car Seat recall illustrates the potential harm done to consumers by secrecy. The car seat/carrier recalled last week injured 160 children before it was made public. How many of those injuries could have been prevented if CPSC had alerted the public when they first learned about the hazard, rather than a year later when they had finally cajoled the company to issue a recall. Evenflo stopped making this car seat in April 2006, presumably because they became aware of the hazard and developed new designs to address it. That leaves unsuspecting parents using the dangerous seat for a year before a recall is issued. That is unacceptable. This committee should ask to see a timetable of those injuries to see what the toll of the delay was on our children.

The US Consumer Product Safety Commission, with a smaller budget than the FDA has to oversee animal medications, has enormous responsibility to keep the public safe from dangerous products. That responsibility is vital to the health and safety of children. We urge Congress to give the agency the tools they need to do an effective job and to require them to fulfill their responsibility to us all.